

26-JUL-2004 08:23 FROM

TO \*5129307900151674243 P.02/03

SSM&amp;P Docket No.: 14154

IBM Docket No.:JP919990264US1

**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: A FRAMEWORK SYSTEM AND METHOD FOR TESTING SERVER PERFORMANCE

The specification of which (check one)

\_\_\_\_\_ is attached hereto.

X was filed on January 11, 2001 as United States Application Number 09/759,837

or PCT International Application Number

and was amended on n/a (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application, having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claimed

| (Number)     | (Country) | (Day/Month/Year Filed) | Yes | No |
|--------------|-----------|------------------------|-----|----|
| 00 1 00949.4 | CHINA     | 11 January 2000        | X   |    |
| (Number)     | (Country) | (Day/Month/Year Filed) | Yes | No |
| (Number)     | (Country) | (Day/Month/Year Filed) | Yes | No |
| (Number)     | (Country) | (Day/Month/Year Filed) | Yes | No |

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below.

(Application Number)

(Filing Date)

(Application Number)

(Filing Date)

I hereby claim the benefit under 35 U.S.C. §120 of any United States Application(s), or §365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States, or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose information material to the patentability of this application as defined in 37 CFR §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)

(Filing Date)

(Status) (patented, pending, abandoned)

(Application Serial No.)

(Filing Date)

(Status) (patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith (list name and registration number).

POWER OF ATTORNEY: As a named inventor I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: Customer No. 00877

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SSM&P Docket No.: 14154  
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Date

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